

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between
Christine M. Marbach
Claimant
vs.
Shearson Lehman Hutton, Inc.
Respondent

CASE #90-02173
AWARD

CASE SUMMARY

Christine M. Marbach, in a claim filed with the National Association of Securities Dealers, Inc. on September 7, 1990, alleged that Respondent Shearson Lehman Hutton, Inc. charged her account for 350 Units of Federal, Ins. Mtge., Inv. L.P. II at \$19.08 each instead of Federal Ins. Mtge. Inv. L.P. I at 14.413 each as ordered and indicated by transfer of ownership documents.

Respondent, Shearson Lehman Hutton, Inc., maintained that the Claimant ordered 150 Units of Federal Insured Mortgage Investors L.P. I and 350 Units of Federal Ins. Mtge. Inv. L.P. II and has been receiving appropriate dividends on such since their purchase.

Claimant replies that she did not purchase L.P. I and II but ordered 500 Units of I with no knowledge that there was a II. She further states that the L.P. II Units have paid Two Hundred Thirty-One Dollars and No Cents (\$231.00) in dividends less than the Units of L.P. I, if they had been correctly credited to her account.

Respondent responds that Claimant and her husband made many references prior to March 27, 1990 that they were aware of the 150/350 denominations, paid for them and did not object until two and one-half years later when she was considering redeeming the units.

Claimant responds that her documents clearly show that she received 500 Units of Federal Insured Mortgage Investors L.P. I, reaffirms that she did not examine the documents sent to her and did not discover the error until March 27, 1990. She further states that Shearson's interpretation of the letters of November 28, 1989, December 19, 1989 and February 17, 1990, are meaningless.

RELIEF REQUEST

Claimant requests damages of One Thousand Six Hundred Thirty-Three Dollars and No Cents (\$1,633.00) representing her overpayment.

Respondent requests dismissal with the allegation that no loss has been sustained.

AWARD


Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Fay Clayton, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 4, 1990 and by the Respondent on November 29, 1990, respectively;

And, that the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. That the claim of Christine M. Marbach be, and hereby is, dismissed in its entirety.
2. The parties shall bear their respective costs including attorney's fees.
3. The Fifty Dollars and No Cents (\$50.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, FAY CLAYTON, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATED: 2/21/91